SBCivil Writ Petition No.4300/1996
(Nathu v. State of Raj. & Anr.)

Date of Order :: 12th January, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Sudhir Sharma, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.
Mr. K.L.Thakur, Addl.Advocate General.

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By this petition for writ a challenge is given by the petitioner to sub-rule(1) of Rule 17 of the Rajasthan Imposition of Ceiling on Agricultural Holdings Rules, 1973 (hereinafter referred to as "the Rules of 1973"). Rule 17 of the Rules of 1973 pertains to allotment of vested surplus land, which reads as under:-

> "17.Allotment of vested surplus land(1) Subject to the provisions contained in sub rules (2) (3) (4) and rules 18, 19, 20, 20-A and 21, the surplus land vested in the State Government under any law relating to the imposition of ceiling on Agricultural Holdings shall be allotted in accordance with the Rajasthan Land Revenue (allotment of land for Agricultural Purposes) Rules, 1973 in Non-Project areas in accordance with the rules or statement of conditions issued under the Rajasthan Colonisation Act, 1954, in Project Areas."

The challenge to the provision above is given by the petitioner on the count that it empowers State Government to allot land acquired by it under any law

in accordance with the Rajasthan Land Revenue (allotment of land for agricultural purposes) Rules, 1973. It is stated by the petitioner that the land for which he has submitted an application for permanent allotment was acquired under the old ceiling law i.e. under Chapter III-B of the Rajasthan Tenancy Act and, therefore, then land is required to be allotted only in accordance with the provisions of old law and not in accordance with Rule 17(1) of the Rules of 1973.

It is found from pleadings of the writ petition itself and also from reply to the writ petition that the land in question was surrendered by the petitioner himself being having surplus land than the agricultural holding ceiling limits. The land was resumed by Government of Rajasthan under Section 30(E)(2) of Chapter III of the Rajasthan Tenancy Act, 1955. The land aforesaid was in possession of the petitioner being a trespasser after its resumption by Government of Rajasthan. The petitioner is not entitled for getting any lease for permanent cultivation from the land which was earlier subject to the proceedings under Chapter III-B of the Rajasthan Tenancy Act, 1955 against the petitioner himself. The petitioner by adopting the method of getting the land allotted for permanent cultivation virtually want to frustrate the ceiling proceedings as a consequence to which the land was acquired from him by the Government.

In present set of facts challenge to sub-rule (1) of Rule 17 of the Rules of 1973 is not at all available to the petitioner, therefore, the writ petition fails and the same is hereby dismissed.

(GOVIND MATHUR),J.

kkm/ps.